THE CHAMBERLAINS AND GOVERNMENT CONTRACTS

THE REGISTER, ADELAIDE

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ACTION FOR LIBEL

"LOW CLASS" LETTERS OF INTRODUCTION TO THREE AUSTRALIAN AGENTS-GENERAL.

[From our Special Correspondent.]

LONDON, March 22.

The accusations against Mr. Arthur Chamberlain, brother of the Colonial Secretary, published some time ago by the "Star" Newspaper Company which also owns the "Morning Leader," have been made the ground of an action for libel. A select committee, appointed to enquire into the alleged favouritism, bribery, and undue influence, had already examined the charges. The case, in which great interest is felt, began on Wednesday before the Lord Chief Justice.

A strong bar was engaged on both sides, Sir Richard Clarke, K.C., Mr. Blake Odgers K.C., Mr. C. F. Gill, K. C .and Mr. Whitmore Richards appearing for Mr. Chamberlain, and Mr. Rufus Isaacs, K.C., and Mr. Eldon Bankes, K.C., represented the defendant company. Sir Edward Clarke opened in a speech lasting nearly three hours, and said the charges of want of commercial honesty levelled against his client were not defended by the plea that they were true in substance and in fact — the defendants merely urged that their statements had not injured Mr. Chamberlain's character. He then went on to show what these charges were. The first against Mr. Arthur Chamberlain was that as chairman of Kynoch's, Limited, he had stooped to improper means of obtaining for that company contracts for the public services; that by dishonourable and underhand ways he had worked to obtain large Government orders, and that while Kynoch's was pretending to manufacture cordite it was buying it from other people and was putting into its coffers money not honestly earned, but money obtained as commission in consideration of sinister influence used by its chairman. They allege that Kynoch's were mere middlemen for a long time, and against all the rules of the service had bought their gun-cotton in Germany instead of making it themselves. Sir Edward admitted that, while Sir H. Campbell-Bannerman was War Secretary Kynoch's had been asked to reduce their tendering price for cordite to the same level as that of the National Explosives Company — namely, from 3s. to 2s. 10 1/2 d. — and that the Government orders had then been divided between the National Explosives Company and Kynoch's. But this could be explained in that it was held to be to the nation's interest to keep two each private firms of proved standing and solvency in readiness to assist the Government in any emergency it might have for the prompt supply of warlike stores. Again, in 1900, the Government asked for tenders for 2,250,000 lb. of cordite, and in due course Kynoch's tendered for part of that supply at 2s. 6d. The defendants had alleged that the Government representative was at first disposed to reject this tender, but that Mr. Arthur Chamberlain had vowed to Mr. Powell Williams that the loss of the contract would ruin him, and had finally obtained permission to lower his tendering price. The real facts,

according to Sir Edward, were that the Admiralty had advised that Kynoch's tender should be accepted for 880,000 lb. if the price were reduced to 2s. 3d. Instead of that Mr. Powell Williams accepted the tender for 320,000 lb. at Kynoch's own price of 2s. 6d. Mr. Arthur Chamberlain had never seen Mr. Powell Williams as alleged, nor made such representations, nor asked permission to lower the price. Kynoch's had for many years, whatever Government was in power, done 75 per cent of their business with the Government; and when the Parliamentary committee appointed in 1900 to investigate charges of corruption by Government contractors came to report they said that as regards cordite they were satisfied that the orders had been allocated with the single object of obtaining the best results for the public service. On October 5 new matter was opened up, and the following article appeared in the "Morning Leader": — "In the recital of the astounding history of Tubes, Limited', which we gave in yesterday's "Morning Leader," we showed how a company capitalized at £1,150,000 in the height of the cycle boom discontinued its trade in cycle tubes and became in the space of a few months "the only company which could comply with the Admiralty regulations" in the manufacture of steel boiler tubes, such change of trade being contemporaneous with the accession of Mr. Arthur Chamberlain to the chairmanship of the company. It is a matter of common knowledge in Birmingham that with the entry of Tubes, Limited, into the competition for Admiralty contracts other companies which had previously done a large Admiralty business in boiler tubes were in some cases summarily struck off the Admiralty list, and in other cases had the disheartening experience of constantly failing to pass the Admiralty inspectors." The defendant implied that Tubes Limited, had failed as a cycle company, that Mr. Arthur Chamberlain came in and promised to do as he had done in Kynoch's, has sent up the price of Tubes shares by so doing, then sold his shares at a profit, got Admiralty orders for the company by his influence, and thus made a personal profit out of Tube's Limited. The reply to these charges was that Mr. Chamberlain had never sold at a profit a single share of the 100,000 he took. He now still held 75,000 of those shares, the balance having been transferred, at the price Mr. Chamberlain paid, to others who were with him in the endeavour to improve the business of the company such as Mr. Nettlefold and the Birmingham Trust. The "Leader" said: — "The deeper this Chamberlain company scandal is probed the worse it becomes," and it quoted from the report of Tubes, Limited, that nearly the whole of their business during the past year had consisted of supplying weldless tubes for water-tube boilers required by the British Admiralty. And here,

remarked counsel, the defendants showed their unscrupulousness, in not quoting the rest of the sentence, which showed that a loss of £52,000 had resulted, from these dealings with the Admiralty. Elliott's Metal Company — in which the Chamberlain family also held shares — was described by defendants as existing almost entirely by Government work, though during the past seven years the average of its work for Government had been only 1 per cent of its business. The real person aimed at was the Secretary of State for the Colonies. The defendants alleged in their statement of defence that it was not proper that Ministers of the Crown should be connected with or interested in firms or companies under contract to supply materials to the Government, and particularly that the connection of Mr. Joseph Chamberlain, Mr. Austen Chamberlain, and other relatives was a grave public scandal. But the Colonial Secretary had not a single share in any of the manufacturing companies mentioned in these articles. He certainly had £5,000 invested in the Birmingham Trust Company, and in regard to this the defendants said: — "This company, under the chairmanship of Mr. Arthur Chamberlain, was formed to invest the capital of some 15 members of the Chamberlain family, including the Colonial Secretary: Naturally enough, it dabbled extensively in the shares of the other Chamberlain companies — Tubes and Elliott's to wit." The shares of the companies in which this Birmingham Trust had invested (continued Sir Edward), so far as they were companies supplying goods to the Admiralty or the War Office, amounted to only 13 1/2 per cent, of the trust's aggregate investments, Kynoch's shares being 10 per cent. of the whole; and therefore Mr. Joseph Chamberlain's interest in these companies was one twenty-sixth of 13 1/2 per cent. of the trust's operations. In the course of its attacks the 'Leader' had said: — 'As Mr. Arthur Chamberlain remarked shortly after his brother went to the Colonial Office, cartridges now play a prominent part in politics. Mr. Chamberlain has fulfilled his brother's expectations.' It was not Mr. Arthur Chamberlain at all who made that remark about cartridges."

Mr. Arthur Chamberlain was then put in the box — a moustached man, without a monocle, but bearing a resemblance to his famous brother in his height and lean habit of body and in the shape of his head. He stated that he was not in politics, though in 1885 — before the liberals split — he stood for Parliament. He supported the opening of his counsel, and denied the charges. The Chief Justice asked him what proportion of the shares in the Birmingham Trust were held by the Chamberlain family, and he replied that among the relations about 17 per cent,

were held. At the start there were seven of the family out of 217 share holders, but he thought that number had since decreased.

Cross-examined by Mr. Rufus Lanes -— Is it legitimate to use the name of the Colonial Secretary to get business? — There are circumstances under which it might be perfectly legitimate.

Have you ever done it? — No.

Have your subordinates? — Yes.

With your knowledge? — Not with my knowledge at the time.

Who did it? — Mr. Cullen, our London manager.

Where is he now? — I don't know. I think he is with Nobel's.

In what way did he do this? — By letters to the Agents-General.

The Lord Chief Justice — When did this come to your knowledge, Mr. Chamberlain? — After a speech in the House of Commons.

Mr. Isaacs read the following letter, from Kynoch's office, to the Agent-General for Western Australia similar letters having been sent to the Agents-General for South Australia and New South Wales: —

James street, Haymarket.

Sir— In confirmation of our interview yesterday, we have the honour to inform you that our secretary, Mr. Frank Huxham, is about to pay a commercial visit to the different Australian colonies in our interest, and to request that you will give him a letter of introduction to the Premier of the colony which you represent. No doubt you are aware that we are large contractors for the War Office, and we may say that our chairman. Mr. Arthur Chamberlain, is the brother of the Colonial Minister. If it is possible we should be glad if you would mention these facts in your letter, as our object in sending Mr. Huxham out is to endeavour to extend bur reputation, in the Australian colonies. — (Signed) W. Cullen.

Do you think that was an improper letter? — Yes.

Did you get letters of introduction from some of the Agents-General? — We did.

Mr. Isaacs read the. following letter from Sir (then Mr.) E. H. Wittenoom, Agent-General for Western Australia, and addressed to the Colonial Treasury, Perth, Western Australia: —

November 14, 1898. Sir— I have been asked by the firm of Kynoch Limited, to give their secretary, Mr. Frank Huxham, who intends paying a commercial visit to the different Australian colonies in his firm's interest, a letter of introduction to you. and I have much pleasure in doing so, and shall be glad if you can in any way further the object of Mr. Huxham's visit to Western Australia. From the letter addressed to me I gather that the chairman of the company is Mr. Arthur Chamberlain, brother of the Secretary to the colonies.

The effect of this reference to the Colonial Secretary would be to give Mr. Huxham an undue advantage? — I don't see that.

What do you think is improper with the letter? — I think it is bad form — low class. (Laughter.)

But it is not low class to say you are the brother of the Colonial- Secretary? (Much laughter.) — It depends on the way in which it is put.

His Lordship — That was Mr. Cullen, not this witness.

Mr. Isaacs (to witness) — Was that your only objection? — Yes; I say it is -low class of Mr. Cullen; absolutely unnecessary and not proper form.

Can you conceive his object was to get an advantage? — No; I should not suppose that. 1 think he supposed it would be easier to get an introduction by mentioning my name and connection.

And the introduction would be more valuable? — No; I should not think he would be so silly as to think that. We did not present half of these letters of introduction — that shows what we thought of them. W« presented two — New South Wales and. South Australia. Mr. Huxham did not receive these letters until he reached Port Said, when it was too late to get them altered. He did not approve of them.

Do you know of any other case in which the Colonial Secretary's name has been introduced for the purposes of the business of the company? — Yes. — The Governor-General, I think it is, of Hong Kong, and H.M. Consuls in various parts of China and Japan.

Yesterday Mr. Chamberlain again held that the letters of introduction were bad form, but would not accept a more serious view of the matter. The "Westminster Gazette!" report says he would not admit that the letter to the Westralian Agent-General was calculated really to advantage the firm.

Mr. Isaacs tried to get witness to argue that the articles complained of had all arisen out of Mr. Joseph Chamberlain's statement in the House of Commons that he had no interest, direct -or indirect, in Kynoch's; but Mr. Chamberlain would not accept this. That had been one of the excuses put forward; but the real object of the articles, he believed, had been to vilify the character of his brother, and incidentally he (witness), had been vilified too.

But (asked counsel) had not the charge of corruption and dishonesty been specifically disclaimed, in the articles complained of? — That was so, answered] Mr. Chamberlain, in a sense. One day they would make such a disclaimer, but the next they would say something more libellous than ever. (Laughter.)

Asked If he had addressed any letter of remonstrance or correction to his accusers, Mr. Chamberlain, replied — No. He did not consider the papers in question beneath his notice, for he was noticing them at present. (Laughter.) But he heartily despied and disliked them, and should not think of taking notice of them in any other way.

Replying to further questions, witness said that he had consulted Mr. J. Chamberlain before bringing the present action. Also he had been told by the latter that the highest authorities had advised him that he (Mr. J. Chamberlain) had no case against the papers.

Then as to the allegations to which he took exception. Did he object to the statement that Kynoch's were middlemen? — No; not to that alone. It was a very good thing to be a middleman. (Laughter.)

Or to the. statement that their charges were high? — No; not to that alone, either.

Or to the allegation that they had received preferential treatment? — Yes; emphatically yes.

Why? — Because it implied improper relations.

But if there had been no suggestion whatever of impropriety; — The suggestion of impropriety could not be withdrawn from the allegation of favouritism.

And once more the court smiled at the neatness and adroitness of the answer. "Absolutely the best witness I have ever heard," — was the admiring comment of a long-robed expert in the back seats.

Regarding Messrs. Nobel, Mr. Chamberlain declined to accept counsel's suggestion that Kynoch's had entered into an arrangement with that firm to tender for cordite at uniform prices, and subsequently had sent in tenders at a lower figure. An arrangement between the two firms for the purpose suggested had, however, been talked of, though it had come to nothing eventually, upon which Mr. Isaacs asked witness whether he would have informed the Government of this little arrangement.

Mr. Chamberlain replied, "Probably" — to which he added after a long pause, with a smile, "or they would have found it out."

In that case (asked counsel) what was the object of the arrangement? — To prevent either firm tendering at unreasonably low prices.

Pressed further as to the likelihood of the Government being told of any such agreement having been arrived at, Mr. Chamberlain replied that it had not been necessary to come to any decision as to whether they would tell the Government or not. Anyhow, he did not think it would have made any particular difference whether they did or not.

Then counsel put it to Mr. Chamberlain that in Messrs. Nobel's opinion, at all events, he (witness) possessed exceptional influence with the government. Did he accept that? — 'No,' replied Mr. Chamberlain in stentorian tones. He denied it with all the emphasis in his power.

Whereupon counsel read a letter to Mr. Chamberlain from Mr. Johnston, of Nobel's,' containing the sentence, "I know your influence is very great in Government quarters."

That is one sentence out of a long correspondence, replied Mr. Chamberlain. He was trying to lull me at the time.

But one sentence or not there it is. — Yes.

Mr. Isaacs brought out further the now familiar facts that Kynoch's prices were in some cases at least higher than those of other firms tendering to the War Office; that they were allowed to reduce their tenders, and that this was an unusual proceeding. Counsel quoted Mr. Powell Williams, indeed, as having stated in evidence that Kynoch's were the only firm who had ever been favoured in this way.

In this same connection Mr. Chamberlain corrected his assertion to the effect that Kynoch's had never attempted to bring outside pressure to bear on the Government. They had done this once, he admitted, in 1898, when he had engineered a little agitation among the Irish members in connection with the orders given to the firm's branch works at Arklow. Mr. Chamberlain smiled as he recalled the transaction, which His Lordship said he certainly thought could not have been a very wicked one. Mr. Powell Williams, in his evidence before the committee, had described Kynoch's as having set the Irish members on him, and the Lord Chief was so tickled by the phrase that he insisted on looking it up and reading it for himself in the report of the evidence. — The "Daily Telegraph" continued the report: —

Suppose, said Mr. Isaacs, the paper commenting on the facts I have stated had said that you appeared to be getting a preference, you do not think that there would have been ground for bringing an action! — I am quite sure you would have then written an article that was perfectly safe. (Laughter.)

What in the criticism of Kynoch's do you complain of as defamatory of you? -— To begin with, there is "Kynoch Scandal" or "Cordite Scandal." Then there is "Kynoch's are mere middlemen," "The long price the nation had to pay covered two profits, Nobel's supplying the cordite and getting a profit on the material, and Kynoch's taking a commission." I complain of that, and of the paragraphs, "How the Select Committee whitewashed Kynoch's. The Select Committee have justified

their appointment. They had to admit that there was bribery and corruption, but they carefully avoided naming any one."

That suggests your having committed bribery? — Yes, and that the committee carefully avoided naming me.

I do not suggest bribery? — Oh, that is rather late in the day. (Laughter.) I think you should have said that before.

Did you- understand that the suggestion was made against you or against Mr. Joseph Chamberlain? — Primarily they wanted to -vilify my brother, but in doing that they did not care what suffering they inflicted upon me.

You do not want damages for being called a middleman? — No.

Nor for Kynoch's having been referred to as having got a commission? — I cannot let that off. It is said in a most malicious way.

Cross-examination next turned on the connection of the Chamberlain family with the firm of Hoskens, with regard to which the defendants had written, "Of 7,286 £1 shares which have been issued, 6,801 are held, not by Mr. Joseph Chamberlain's brothers and cousins and aunts, but by members of his own family circle. They hold all but 400 of the ordinary shares and all but 85 of the preference. They are the company, they are the contractors to the Admiralty. The next point, and perhaps the most important of all, is the dual position of Mr. Austen Chamberlain, M. P. This gentleman was a Civil Lord of the Admiralty at the time this company was formed by h s relatives. He took, and still retains a large financial interest in it. His family controls it absolutely. It has ever since remained contractors to the Admiralty, and Mr. Austen Chamberlain has continued a high official at the Admiralty. There is no reason to suppose that he would use his public office to further his private interests, but how difficult he has rendered the position of his subordinate at Whitehall." Assuming those facts are true, do you suggest that it was improper for a newspaper to comment upon them? — Assuming all you assume, no.

Can you point to any single item in that article which contains an untruth? — I know nothing about it.

The Lord Chief Justice — That is not one of the articles complained of.

Mr. Isaacs— I am attempting to justify the article by the statement that these are fair comments.

Plaintiff — You are not suggesting that I do not object to the pedigree which appeared in the paper? I think it was most offensive.

Mr. Isaacs — Oh, no.

Turning to the Birmingham Trust, Mr. Isaacs elicited from the plaintiff that Mr. Joseph Chamberlain held 1,000 preference and 500 ordinary shares in that concern, and that his own investment was 2,200 ordinary and 449 preference shares. In all, 15 members of the family were shareholders. He did not know whether any of the companies in which the Birmingham Trust invested made material which was inspected by Government inspectors, but all work for the Government was inspected. He could not say precisely how the trust stood with regard to the Thomas Smith's Stamping Works, but he could tell the market price of the shares of that concern, and whether the shares were likely to go up or down.

The Lord Chief Justice -— Can you? I should like to know that. (Laughter.)

[Mr. Arthur Chamberlain was awarded £200 damages, with costs. An action brought by Mr. Neville Chamberlain was settled by the payment of £1,500. — Ed.]

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